

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Francisco J. Toledo, et als

Plaintiff

V.

Anais Rodríguez Vega, et als

Defendants

CIVIL NO. 24-1462 (RAM)

CIVIL RIGHTS

MOTION IN COMPLIANCE WITH ORDER

TO THE HONORABLE COURT:

NOW COME, the plaintiffs, through their undersigned attorneys and very respectfully state, pray and request the following:

1. In the instant case, the Honorable Court ordered plaintiffs to show cause why the complaint should not be dismissed without prejudice for failure to serve process on defendants within the 90-day period established by the Federal Rules of Civil Procedure. Here, Plaintiffs show that they served process in time.

2. Plaintiffs filed the instant complaint on October 1, 2024. Summons were issued on October 2, 2024. Summons were delivered personally to Defendant Damaris Miranda Maisonave on November 7, 2024¹. On that same date, the process server went to serve Anais Rodríguez Vega, then Secretary of the Department of Natural and Environmental Resources of Puerto Rico, but was directed to leave the summons with the Department's legal division².

¹ See Exhibit 1 of this motion.

² See Exhibit 2 of this motion.

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3. On November 25, 2024, a person called from the Legal Division of the DNRA requested the service of process on Defendants. On November 26, 2024, the request was made via email as per the parties conversation. On that same date, the request was answered with the summons³.

4. On December 17, 2024, while dealing with another case with the Justice Department, the undersigned mentioned the lack of appearance of Defendants in this case and requested a response. He was told “I will check the Toledo case and let you know.”⁴ On December 20, 2024, the undersigned spoke with attorney Fernández from the Justice Department who again requested a copy of summons and that then Defendants would make their appearance. That same day they were sent. Upon receiving a second call, counsel Fernández informed the undersigned that summons was served as if Defendants were sued in their personal capacity and hence, they were invalid and there would not be an appearance. Later that day, counsel Fernández informed the undersigned that his objection to Ms. Miranda Maisonave was waived since summons was proper⁵.

5. Although the undersigned believes that the service of process on former Secretary Rodríguez Vega was valid, in order to prevent a full blown controversy over the service of summons which at times becomes a trial within a trial, it was agreed that the Secretary would be served again. Service was done a second time on December 30, 2024⁶, within the 90 days of Rule 4(m). Hence, even if the Justice Department’s objection on the first summons was correct, the second service was done in person to Defendant Rodríguez Vega. In addition, the Justice

³ See Exhibit 3 of this motion.

⁴ See Exhibit 4 of this motion.

⁵ See Exhibit 5 of this motion.

⁶ See Exhibit 6 of this motion.

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Department has appeared on behalf of Miranda Maisonave after Counsel Fernández was advised that entry of default would be requested on Monday January 13, 2025⁷.

6. Plaintiffs did not request entry of default in this case in November since it has been his experience that the Justice Department many times receives the summons after the time to answer expires and is then forced to file motions to lift default. In addition, the undersigned, especially after the notification from the DNRA requesting the summons, knew that bureaucratic shenanigans were occurring and did not want to subject Defendants to unnecessary grief. Hence, Plaintiffs respectfully requests that the Court accept this explanation, and proceed with this case.

WHEREFORE: Plaintiffs respectfully requests from the Honorable Court that it accept this explanation, and proceed with this case.

Respectfully submitted on this 14th day of January, 2025.

/s/ John E. Mudd
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⁷ See Exhibit 7 of this motion.